

1 UNITED STATES DISTRICT COURT

2 DISTRICT OF NEVADA

3 JOHN RUIZ,

Case No. 2:18-cv-00091-RFB-EJY

4 Plaintiff,

ORDER

5 v.

6 NEVADA DEPARTMENT OF  
CORRECTIONS et al.,

7 Defendants.

8  
9 This action began with a pro se civil rights complaint filed pursuant to 42 U.S.C. § 1983  
10 by a state prisoner. Plaintiff has submitted two applications to proceed *in forma pauperis*.<sup>1</sup> (ECF  
11 Nos. 4, 11). Based on the financial information provided, the Court finds that Plaintiff is unable  
12 to prepay the full filing fee in this matter.

13 The Court entered a screening order on May 28, 2019. (ECF No. 13). The screening order  
14 imposed a 90-day stay and the Court entered a subsequent order in which the parties were assigned  
15 to mediation by a court-appointed mediator. (ECF Nos. 13, 15). The Office of the Attorney  
16 General has filed a status report indicating that settlement has not been reached and informing the  
17 Court of its intent to proceed with this action. (ECF No. 20).

18 Plaintiff filed a motion to acknowledge the first amended complaint. (ECF No. 19). The  
19 Court denies the motion as moot because the screening order stated that the first amended  
20 complaint (ECF No. 12) was the operative complaint in the case and screened the first amended  
21 complaint. (*See* ECF No. 13 at 15).

22 For the foregoing reasons, **IT IS ORDERED** that:

23 1. Plaintiff's applications to proceed *in forma pauperis* (ECF Nos. 4, 11) are  
24 **GRANTED**. Plaintiff shall not be required to pay an initial installment of the filing fee. In the  
25 event that this action is dismissed, the full filing fee must still be paid pursuant to 28 U.S.C. §  
26 1915(b)(2).

27  
28 <sup>1</sup> Plaintiff filed a motion to correct an error in his original application to proceed *in forma pauperis*.  
(ECF No. 18). The Court denies the motion as moot because Plaintiff filed a subsequent application that is  
fully complete.

1           2.       The movant herein is permitted to maintain this action to conclusion without the  
2       necessity of prepayment of any additional fees or costs or the giving of security therefor. This  
3       order granting leave to proceed *in forma pauperis* shall not extend to the issuance and/or service  
4       of subpoenas at government expense.

5           3.       Pursuant to 28 U.S.C. § 1915(b)(2), the Nevada Department of Corrections shall  
6       pay to the Clerk of the United States District Court, District of Nevada, 20% of the preceding  
7       month's deposits to Plaintiff's account (**John Ruiz, #54497**), in the months that the account  
8       exceeds \$10.00, until the full \$350.00 filing fee has been paid for this action. The Clerk of the  
9       Court shall **SEND** a copy of this order to the Finance Division of the Clerk's Office. The Clerk  
10      of the Court shall also **SEND** a copy of this order to the attention of the Chief of Inmate Services  
11      for the Nevada Department of Corrections, P.O. Box 7011, Carson City, NV 89702.

12          4.       The Clerk of the Court shall electronically **SERVE** a copy of this order and a copy  
13      of Plaintiff's first amended complaint (ECF No. 12) on the Office of the Attorney General of the  
14      State of Nevada by adding the Attorney General of the State of Nevada to the docket sheet. This  
15      does not indicate acceptance of service.

16          5.       Service must be perfected within ninety (90) days from the date of this order  
17      pursuant to Fed. R. Civ. P. 4(m).

18          6.       Subject to the findings of the screening order (ECF No. 13), within twenty-one (21)  
19      days of the date of entry of this order, the Attorney General's Office shall file a notice advising  
20      the Court and Plaintiff of: (a) the names of the defendants for whom it accepts service; (b) the  
21      names of the defendants for whom it does not accept service, and (c) the names of the defendants  
22      for whom it is filing the last-known-address information under seal. As to any of the named  
23      defendants for whom the Attorney General's Office cannot accept service, the Office shall file,  
24      under seal, but shall not serve the inmate Plaintiff the last known address(es) of those defendant(s)  
25      for whom it has such information. If the last known address of the defendant(s) is a post office  
26      box, the Attorney General's Office shall attempt to obtain and provide the last known physical  
27      address(es).

7. If service cannot be accepted for any of the named defendant(s), Plaintiff shall file a motion identifying the unserved defendant(s), requesting issuance of a summons, and specifying a full name and address for the defendant(s). For the defendant(s) as to which the Attorney General has not provided last-known-address information, Plaintiff shall provide the full name and address for the defendant(s).

8. If the Attorney General accepts service of process for any named defendant(s), such defendant(s) shall file and serve an answer or other response to the first amended complaint (ECF No. 12) within sixty (60) days from the date of this order.

9. Plaintiff shall serve upon defendant(s) or, if an appearance has been entered by counsel, upon their attorney(s), a copy of every pleading, motion or other document submitted for consideration by the Court. Plaintiff shall include with the original document submitted for filing a certificate stating the date that a true and correct copy of the document was mailed or electronically filed to the defendants or counsel for the defendants. If counsel has entered a notice of appearance, Plaintiff shall direct service to the individual attorney named in the notice of appearance, at the physical or electronic address stated therein. The Court may disregard any document received by a district judge or magistrate judge which has not been filed with the Clerk, and any document received by a district judge, magistrate judge, or the Clerk which fails to include a certificate showing proper service.

10. This case is no longer stayed.

11. The motion for correction (ECF No. 18) is denied as moot.

12. The motion to acknowledge amended complaint (ECF No. 19) is denied as moot.

DATED THIS 27th day of August 2019.

Elayna J. Youchak  
ELAYNA J. YOUCHAK  
UNITED STATES MAGISTRATE JUDGE